

W. Paul Schuck (Cal. Bar No. 203717)
pschuck@bzbm.com

BARTKO, ZANKEL, BUNZEL & MILLER
A Professional Corporation
One Embarcadero Center, Suite 800
San Francisco, California 94111
Telephone: (415) 956-1900
Facsimile: (415) 956-1152

ANDREW G. DINOVO (admitted *pro hac vice*)
adinovo@dpelaw.com

ADAM G. PRICE (admitted *pro hac vice*)
aprice@dpelaw.com

NICOLE E. GLAUSER (admitted *pro hac vice*)
nglauser@dpelaw.com

DINOVO PRICE ELLWANGER & HARDY LLP
7000 N. MoPac Expressway, Suite 350
Austin, Texas 78731
Telephone: (512) 539-2626
Facsimile: (512) 539-2627

Attorneys for Plaintiff
DIGITAL REG OF TEXAS, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DIGITAL REG OF TEXAS, LLC,

Plaintiff,

v.

ADOBE SYSTEMS INCORPORATED, et al.,

Defendants.

) Case No. 12-CV-01971 CW (KAW)

) **MOTION FOR ADMINISTRATIVE**
) **RELIEF FOR LEAVE TO FILE**
) **UNREDACTED RESPONSE TO**
) **ADOBE'S MOTIONS *IN LIMINE* AND**
) **CERTAIN EXHIBITS IN SUPPORT**
) **THEREOFF UNDER SEAL PURSUANT**
) **TO CIVIL L.R. 79-5**

) Judge: The Hon. Claudia Wilken

) Date: August 13, 2014

) Time: 2:00 p.m.

) Ctrm: 2, 4th Floor

1 **I. INTRODUCTION**

2 Pursuant to Civil L.R. 7-11, Plaintiff Digital Reg of Texas, LLC (“Digital Reg”) hereby
 3 requests leave to file under seal, pursuant to Civil L.R. 79-5, the unredacted version of Digital
 4 Reg’s Response to Adobe’s Motions *in Limine* and Exhibits A, B, C, D, E, F, G, H, I, J, K, L, O,
 5 P, and T to the Declaration of Declaration of W. Paul Schuck in Support of Digital Reg’s
 6 Response to Adobe’s Motions *in Limine* (“the Declaration”). This Motion is supported by the
 7 Declaration of W. Paul Schuck in Support of Digital Reg’s Motion to File Unredacted Response to
 8 Adobe’s Motions *in Limine* and Certain Exhibits in Support under Seal (“Schuck Seal Decl.”).

9 The exhibits contain confidential technical or financial information regarding Adobe’s
 10 accused products or confidential Digital Reg business information. Adobe or Digital Reg has
 11 designated each of the documents as Confidential or Highly Confidential—Attorneys Eyes Only
 12 documents pursuant to the Protective Order. Accordingly, Digital Reg is obligated under the
 13 Protective Order to request that the exhibits filed under seal.

14 In addition, many of these exhibits are quoted or discussed in Digital Reg’s response to
 15 Adobe’s Motions *in Limine*. For that reason, Digital Reg has prepared a redacted version of its
 16 brief, without this information. Pursuant to Local Rule 79-5, the document has been narrowly
 17 tailored to conceal only information that has been designated as confidential.

18 **II. THE EXHIBITS AT ISSUE**

19 Each of Exhibits A, B, C, D, E, F, G, H, I, J, K, L, O, P, and T to Declaration has been
 20 designated as Confidential or Highly Confidential under the protective order by one of the parties
 21 in this litigation.

22 Exhibit A to the Declaration is excerpts of the expert report of Russell L. Parr. (Schuck
 23 Seal Decl., ¶ 4.) Mr. Parr’s report contains and discusses confidential financial information of
 24 Adobe and has been designated as Highly Confidential by Adobe. (*Id.*)

25 Exhibit B to the Declaration is the transcript of the deposition of Adobe employee Julie
 26 Morgan, taken on April 29, 2013. (*Id.*, ¶ 5.) Ms. Morgan testified on financial issues. Adobe has
 27 designated this transcript as Highly Confidential. (*Id.*)
 28

1 Exhibit C to the Declaration is the deposition of James Kazanegras, an employee of former
2 defendant Symantec, taken on April 11, 2013. (*Id.*, ¶ 6.) Symantec, which settled and is no longer
3 part of the case, designated this transcript as Highly Confidential. (*Id.*)

4 Exhibit D to the Declaration is the transcript of the deposition of Adobe employee Juan
5 Carlos Colosso, taken on March 26, 2013. (*Id.*, ¶ 7.) Adobe has designated the transcript as
6 Highly Confidential. (*Id.*)

7 Exhibit E is a DRM Technologies Agreement with a third party. (*Id.*, ¶ 8.) Digital Reg
8 maintains its licenses as confidential in order to avoid weakening its position in future license
9 negotiations and to avoid any competitive harm to its business partners. (*Id.*) Digital Reg,
10 therefore, produced this document with the Highly Confidential designation and requests that it be
11 kept under seal. (*Id.*)

12 Exhibit F to the Declaration is excerpts from the transcript of the deposition of Digital
13 Reg's Michael Farley taken on March 27, 2013. (*Id.*, ¶ 9.) Mr. Farley testified regarding Digital
14 Reg's confidential licenses, licensing strategy and other confidential business plans. (*Id.*)
15 Therefore, Digital Reg designated the document as Highly Confidential. (*Id.*)

16 Exhibit G to the Declaration is excerpts from the transcript of the deposition of Adobe's
17 damages expert Stephen Prowse, taken on January 28, 2014. (*Id.*, ¶ 10.) Dr. Prowse testified
18 regarding confidential Adobe financial information and licenses that Digital Reg keeps
19 confidential as discussed above. (*Id.*) For this reason, Adobe properly designated the transcript as
20 Highly Confidential. (*Id.*)

21 Exhibit H to the Declaration is excerpts of the transcript of the deposition of damages
22 expert Russell L. Parr taken on January 23, 2014. (*Id.*, ¶ 11.) Mr. Parr discloses and discusses
23 sensitive financial information designated by Adobe as Highly Confidential. (*Id.*)

24 Exhibit I is excerpts of the rebuttal expert report of Adobe damages expert, Stephen
25 Prowse, dated December 18, 2013. (*Id.*, ¶ 12.) Dr. Prowse relied upon confidential Adobe
26 financial information and analyzed confidential Digital Reg licenses. (*Id.*) Adobe designated the
27 report as Highly Confidential. (*Id.*) In order to preserve the confidential information of Adobe,
28

Digital Reg, and Digital Reg's licensees, Digital Reg requests that the report remain Highly Confidential and be filed under seal. (*Id.*)

Exhibit J to the Declaration is a report to Digital Reg that is part of a license agreement. (*Id.*, ¶ 13.) As set forth above, Digital Reg maintains the confidentiality of its license agreements in order to avoid weakening its position in future license negotiations and to avoid any competitive harm to its licensees. (*Id.*) Digital Reg therefore produced this document with the Highly Confidential designation. (*Id.*)

Exhibit K is a copy of Adobe's Responses and Objections to Digital Reg's First Set of Interrogatories, dated September 13, 2012, and Exhibit T is a copy of Adobe's Supplemental Responses and Objections to Digital Reg's First Set of Common Interrogatories, dated April 10, 2013. (*Id.*, ¶¶ 14 & 18.) Adobe designated these documents as Highly Confidential and Digital Reg is therefore required to take steps to avoid public disclosure of the document. (*Id.*)

Exhibit L to the declaration is excerpts of the expert report of technical expert Dr. Premkumar Dvanbu. (*Id.*, ¶ 15.) The report cites and discusses confidential technical information regarding Adobe and/or other defendants' products that have been designated Highly Confidential. (*Id.*) Therefore, Digital Reg has designated the document as Highly Confidential. (*Id.*)

Exhibit O to the Declaration is from the transcript of the deposition of Digital Reg's Carl Venters, taken on March 26, 2013. (*Id.*, ¶ 16.) Mr. Venters testified regarding confidential business plans and other business information. (*Id.*) Accordingly, the transcript of Mr. Venters deposition has been designated as Highly Confidential by Digital Reg. (*Id.*)

Exhibit P is a copy of a Digital Containers business strategy document titled "Digital Containers/DOLBY Value Proposition." (*Id.*, ¶ 17.) This document discloses confidential business information regarding Digital Reg and a confidential business proposal. (*Id.*) Digital Reg has therefore designated the document as Highly Confidential and requests that it be kept under seal. (*Id.*)

Thus, each of these exhibits contains confidential technical, business or financial information pertaining to Adobe, Digital Reg or a settling former defendant. Under the protective order, such information is not to be publicly disclosed by any party. Moreover, disclosure of these

materials could cause competitive harm to Adobe, Digital Reg or another party. Therefore, Digital Requests that the specified exhibits be filed under seal.

III. THE UNREDACTED BRIEF

The unredacted version of Digital Reg's Response to Adobe's Motions *in Limine* quotes from the foregoing exhibits and discusses their content. In order to avoid disclosure of information that has been designated Confidential or Highly Confidential, Digital Reg has prepared a redacted brief. (*Id.*, ¶ 20.) The redacted version of the brief conceals direct quotations from the exhibits or detailed discussion of their contents. Pursuant to Civil L.R. 79-5, these redactions have been narrowly tailored to protect only confidential information. (*Id.*) Therefore, Digital Reg further requests that the unredacted brief be filed and sealed and the redacted version be placed in the public record.

IV. CONCLUSION

For the foregoing reasons, Digital Reg requests that the unredacted Response to Adobe Brief Regarding Disputed Legal Issues and Exhibits A, B, C, E, F, G, H, I, J, K, L, M, N, O, P, Q, R and S to Declaration of Declaration of W. Paul Schuck in Support of Digital Reg's Response to Adobe Brief Regarding Disputed Legal Issues, be filed under seal pursuant to Civil L.R. 79-5.

In addition, Adobe, the party designating Exhibits B, D, G, H, I, K, and T as confidential has four (4) days to file a declaration in support of this request to file under seal pursuant to Civil L.R. 79-5(e)(1).

DATED: August 6, 2014

Respectfully submitted,

BARTKO, ZANKEL, BUNZEL & MILLER

By: /s/ W. Paul Schuck
W. Paul Schuck

DINOVO PRICE ELLWANGER & HARDY LLP

By: /s/ Andrew G. DiNovo
Andrew G. DiNovo

Attorneys for Plaintiff
DIGITAL REG OF TEXAS, LLC

ATTESTATION OF E-FILER

In compliance with Local Rule 5-1(i), the undersigned ECF user filing this document,
hereby attests that all signatories of this document have concurred in the filing of this document.

/s/ W. Paul Schuck
W. Paul Schuck